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Supreme Court, U.S.
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In the
Supreme Court of the United States
October Term 1996

KAY BROWN, Petitioner

VS.

TOMMIE RAY SANFORD, INDIVIDUALLY
AND DBA TOMMIE RAY'S, Respondent

On Petition for a Writ of Certiorari
To the United States Court of Appeals
For the Fifth Circuit

****

PETITION FOR A WRIT OF CERTIORARI

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27 pp

QUESTIONS PRESENTED FOR REVIEW

1. WHETHER A DEBT WHICH AROSE FROM A JUDGMENT AWARDED UNDER A STATE'S DRAM SHOP ACT AGAINST THE SELLER, PROVIDER AND/OR SERVER OF ALCOHOLIC BEVERAGES SHOULD BE EXEMPT FROM DISCHARGEABILITY PURSUANT TO 11 U.S.C. § 523(a)(6).

LIST OF ALL PARTIES

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	RESPONDENT: Tommie Ray Sanford, Individually and dba Tommie Ray's
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IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM 1996

KAY BROWN, Petitioner

v.

TOMMIE RAY SANFORD, INDIVIDUALLY
AND DBA TOMMIE RAY'S, Respondent

**PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

Kay Brown respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Fifth Circuit.

OPINIONS BELOW

The opinion of the Court of Appeals for the Fifth Circuit is unreported. (App. 1-4). The opinion of the United States District Court (App. 5-10) and the judgment of the Bankruptcy Court (App. 11-12) are unreported. The bankruptcy findings were made on the record and are provided in the Appendix. (App. 13-20). The judgment from the 295th Judicial District

Court of Harris County, Texas is unreported and is set forth in the Appendix. (App. 21-24).

JURISDICTION

The Court of Appeals entered its judgment on July 5, 1996. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

STATUTORY PROVISION INVOLVED

1. 11 U.S.C. § 523 - Due to its length, the entire statute is reprinted in the Appendix pursuant to Supreme Court Rule 14. See App. 25-33.

2. Tex. Alco. Bev. Code §§ 2.01, 2.02 Due to its length, the entire statute is reprinted in the Appendix pursuant to Supreme Court Rule 14. See App. 34-35.

STATEMENT

I. STATEMENT OF FACTS

On October 2, 1990, Petitioner Kay Brown ("Petitioner") was seriously injured when her automobile was struck by an automobile being driven by Ed Reasoner ("Reasoner"). The accident occurred at approximately 9:45 p.m.

At the time of the accident, Reasoner was legally intoxicated. Prior to the accident, Reasoner had been drinking continuously at Respondent Tommie Ray's for a period of over 10 hours.

Respondent is Tommie Ray Sanford, individually, and Tommie Ray Sanford in his capacity as the bar Tommie Ray's ("collectively Respondent"). Respondent provided and sold alcoholic drinks to Reasoner[1] at a time when Respondent knew Reasoner was intoxicated and presented a danger to himself and others.

Respondent further testified that he did not carry any type of liability insurance and made no provision to have funds in case anyone was injured due to Respondent's negligence and/or violations of the Texas Dram Shop Act. Respondent also admitted that it was his responsibility as the owner of the bar and provider of the liquor to supervise his employees. Respondent Tommie Ray Sanford still owns the bar.

Petitioner sued Respondent and Reasoner in the 295th Judicial District Court of Harris County, Texas. On April 2, 1993, Petitioner was awarded a judgment against Respondent by the 295th Judicial District Court. The 295th Judicial District Court found that Respondent was liable for providing or selling alcoholic beverages to an obviously intoxicated person pursuant to Tex. Alco. Bev. Code Ann. § 2.01 *et.seq.* (Vernon 1992) (the "Texas Dram Shop Act"). The 295th Judicial District Court further found that Respondent's violation of the Texas Dram Shop Act was the proximate cause of Petitioner's injuries.

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[1]Respondent argued that his employees actually served the drinks, but for the purposes of liability under the Texas Dram Shop Act, Tex. Alco. Bev. Code § 2.01 *et. seq.* (Vernon 1992), Respondent is liable because he provided the alcoholic beverages for sale under his liquor license.

II. FEDERAL JURISDICTION

This case arose under Title 11 of the United States Code. The Bankruptcy Court's decision was appealed to the District Court pursuant to 28 U.S.C. §§ 157 and 158(a). The District Court affirmed the Bankruptcy Court and this decision was appealed to the Fifth Circuit Court of Appeals pursuant to 28 U.S.C. §§ 157 and 158(a).

III. PROCEEDINGS BELOW

On April 29, 1993, Respondent filed a voluntary petition for relief under Chapter 7 of Title 11 of the United States Code (the "Bankruptcy Code"). On July 20, 1993, Petitioner timely brought a cause of action seeking to hold Respondent's debt to Petitioner nondischargeable pursuant to 11 U.S.C. § 523(a)(6).

After a trial on the merits, the Bankruptcy Court found that Reasoner went to Respondent Tommie Ray's intending to and succeeding to get drunk. The Bankruptcy Court also found that Respondent Tommie Ray's, served Reasoner alcoholic beverages and that Reasoner was drunk at the time the drinks were being served. However, the Bankruptcy Court found that Respondent Tommie Ray Sanford, in his individual capacity, did not serve the drinks to Reasoner, therefore the liability was only vicarious and the debt to Petitioner was dischargeable..

The Bankruptcy Court granted the Final Judgment in favor of Respondent which was entered of record on January 25, 1996. Petitioner perfected her appeal to the

United States District Court on June 22, 1994. The United States District Court affirmed the Final Judgment of the Bankruptcy Court, and Petitioner perfected her appeal to the United States Court of Appeals for the Fifth Circuit. The Fifth Circuit issued its opinion affirming the holdings of the District Court and the Bankruptcy Court on July 5, 1996.

REASONS FOR GRANTING THE PETITION

This Petition for Writ of Certiorari should be granted because the decision of the Fifth Circuit Court of Appeals involves an important question of federal law that has not been and should be settled by this Court.

I. JUDGMENTS UNDER STATE DRAM SHOP ACTS SHOULD BE EXCEPTED FROM DISCHARGE

The question presented involves the nondischargeability of debts which arise from judgments pursuant to a Dram Shop Act. This issue has not been addressed, by any Bankruptcy Court, United States District Court or this Court that has been reported, and the Bankruptcy Code is silent on this issue.

The Bankruptcy Code specifically addresses the nondischargeability of debts which arise from injuries cause by drunk drivers, but the debts that arise from the actions of those who help the drunk become more intoxicated are not specifically dealt with. The debts that arise from violations of a state's Dram Shop Act should receive the same treatment as those debts that arise from the injuries caused by drunk drivers.

A. Claims Arising Under Violation of a State's Dram Shop Act Are Analogous to Claims that are Nondischargeable Under 11 U.S.C. § 523(a)(9)

Prior to the enactment of 11 U.S.C. § 523(a)(9), judgments or debts caused by injuries from intoxicated drivers were held nondischargeable under 11 U.S.C. § 523(a)(6). *See In re Adams*, 761 F.2d 1422 (9th Cir. 1985). At the time

that Congress enacted 11 U.S.C. § 523(a)(9), most of the existing dram shop statutes did not exist. For example, the Texas Dram Shop Act, the statute at issue in the case at bar, was not enacted until 1987, and has not, prior to the present case, been challenged in the Bankruptcy Court in any type of reported opinion.

The policy behind holding debts arising out of injuries by drunken drivers nondischargeable involves the voluntary nature of the act by the driver. See *Adams*, 761 F.2d 1422. Although this act may be considered one of negligence, the "voluntary acts of drinking and driving while intoxicated constitute conduct sufficiently intentional to support a finding of willfulness and malice as contemplated by 11 U.S.C. § 523(a)(6) . . .." *Adams*, 761 F.2d at 1427. *See also In re Greenwall*, 21 B.R. 419, 421 (S.D. Ohio 1982) (liabilities incurred as a result of drunk driving held nondischargeable because the "voluntary drinking by defendant constituted an intentional act sufficient to support the conclusion that the injury caused by the defendant was willful and malicious"); *In re Callaway*, 41 B.R. 311, 346 (Bankr. E.D. Penn. 1984) (voluntary act of drinking and driving in an intoxicated state is sufficiently intentional and deliberate to make debt nondischargeable); *In re Wooten*, 30 B.R. 357, 358 (Bankr. N.D. Ala. 1983) (debt is nondischargeable because act of drinking is intentional act).

The reasoning that was applied in *Adams* and its progeny should be applied in cases involving judgments arising from Dram Shop Act violations. The voluntary act of serving an already intoxicated person is sufficiently intentional and deliberate to make the debt nondischargeable.

Under a Dram Shop Act, a person who has provided, sold or served alcoholic beverages to an already intoxicated

person who presents a clear danger to himself or others can be liable for the injuries caused by the intoxicated person. *See e.g.*, Tex. Alco. Bev. Code § 2.02. The voluntary act of a debtor in providing, selling or serving alcoholic beverages to a person whom he knows is obviously intoxicated to the extent that person presents a clear danger to himself and others which results in injury should certainly fall within the willfulness and malice as contemplated by 11 U.S.C. § 523(a)(6).

Dram Shop statutes provide exclusive statutory remedies and usually preclude any remedy for a common law cause of action under negligence. *See* Tex. Alco. Bev. Code § 2.01 *et. seq.*; *Sewell v. Smith*, 819 S.W.2d 565 (Tex. Civ. App.—Dallas 1991) *aff'd* 858 S.W.2d 350 (Tex. 1993) (Although the Texas Supreme Court implied that the statute was one of negligence, Sewell only dealt with the comparative negligence of determining liability between the provider of the alcoholic beverages and the intoxicated person. Sewell did not deal with the liability between the provider of the alcoholic beverages and innocent third parties injured by the intoxicated person.) *See also Fuller v. Maxus Energy Corp.*, 841 S.W.2d 881 (Tex. Civ. App. — Waco 1992, no writ).

Holding that violations of state Dram Shop Acts would be consistent with the public policy behind the enactment of the Dram Shop Acts. The voluntary act of an entity or person who willfully provides for sale or sells beverages under his liquor license to a person whom he knows is already intoxicated should not be able to absolve his intentional act by filing bankruptcy. *See In re Cloutier*, 33 B.R. 18, 20 (Bankr. D. Me. 1982) (debt resulted from driving while intoxicated held nondischargeable because substantial certainty of injury resulted from judgment debtor's drinking gave rise to inference of intent to injure).

B. **Negligent Actions Can Give Rise to Willful and Malicious As Defined by 11 U.S.C. § 523(a)(6)**

Although, the argument may be made that a person's violation under a Dram Shop Act is merely one of negligence, this is not sufficient to take the debtor entirely out of the willful and malicious standard that is set forth in 11 U.S.C. § 523(a)(6). It is the nature of the action that will determine whether it meets the willful and malicious standard of 11 U.S.C. § 523(a)(6).

Willful means deliberate or intentional. Malicious means a conscious disregard of one's duties or without just cause or excuse and does not require ill will or specific intent to do harm. *Chrysler Credit Corp. v. Perry Chrysler Plymouth, Inc.*, 783 F. 2d 480 (5th Cir. 1986); *In re Quezada*, 718 F.2d 121 (5th Cir. 1983); *Perkins v. Scharffe*, 817 F. 2d 392 (6th Cir. 1987), *cert. denied*, 484 U.S. 853 (1987). The standard for determining whether a debt should be discharged is "[w]hen a wrongful act, . . . done intentionally, necessarily produces harm and is without just cause or excuse, it is 'willful and malicious' even absent proof of specific intent to injure." *In re Keller*, 106 B.R. 639, 643 (9th Cir. 1989) (citing *Impulsora Del Territorio Sur., S.A., v. Cecchini*, 780 F.2d. 1440, 1442-1443 (9th Cir. 1986). Courts have held negligent actions in malpractice cases to be nondischargeable if certain elements are present. *See Keller*, 106 B.R. 639.

The requisite elements that need to be found are: 1) that the debtor know, expected or should have known, form an objective perspective, that his conduct was certain or almost certain to cause harm; 2) the debtor's conscious disregard of his duties without just cause or excuse in a manner that he should have known presented a risk of harm; and 3) the debtor's willingness to risk a creditor's loss due to

the prospect of personal benefit. *Keller*, 106 B.R. at 644. *See also In re Strauss*, 99 B.R. 396, 399-400 (Bankr. N.D. Ill. 1989) (debtor's knowledge that an act could cause foreseeable injury, but refuses to take steps to prevent same is malicious. Failure to procure worker's compensation insurance is malicious injury). These elements give rise to subjective intent and implied malice. When intent and malice are present, even though the state court judgment is one of negligence, the debt should be nondischargeable. *See In re Dean*, 79 B.R. 659, 662 (Bankr. N.D. Tex. 1987); *See also Scharffe*, 817 F.2nd 392; *In re Franklin*, 726 F.2d 606 (10th Cir. 1984).

Like the malpractice cases and the cases involving injuries caused by drunk drivers, debts arising out violations of state Dram Shop Acts should be nondischargeable. The voluntary act of the debtor providing or selling alcoholic beverages to a person whom he knows is obviously intoxicated which results in an injury should certainly fall within the willfulness and malice as contemplated by 11 U.S.C. § 523(a)(6). The voluntary act of an entity or person who willfully provides for the sale or sells alcoholic beverages under his liquor license should not be absolved from all liability simply because he personally did not serve the drink to the already intoxicated person.

Just as the intoxicated person cannot relieve its liability for injuries he causes by filing Chapter 7, neither should the person who provided the liquor to the intoxicated person be able to absolve his liability. The Bankruptcy Code specifically exempts debts caused by injuries from intoxicated drivers. *See* 11 U.S.C. § 523(a)(9). The Bankruptcy Code should also exempt from discharge the debts of those individuals who provided additional alcoholic beverages to the already intoxicated person.

C. Dram Shop Acts Place Primary Liability On the Provider of the Alcoholic Beverages

Dram Shop Acts, such as the Texas Dram Shop Act are not statutes of vicarious or imputed liability, as both the Fifth Circuit and the Bankruptcy Court interpreted, but rather are direct liability statutes. The statutes place direct liability on the person who provides, sells or serves the liquor. *See e.g.*, Tex. Alco. Bev. Code § 2.02. Therefore, even if the debtor did not actually serve the drink but provided such beverages for sale under his liquor license, he is directly responsible for the injuries caused. *See* Tex. Alco. Bev. Code § 2.02.

A provider of alcoholic beverages is defined as a person who sells or serves an alcoholic beverage under authority of a license or permit or someone who otherwise sells an alcoholic beverage to an individual. *See e.g.* Tex. Alco Bev. Code § 2.01.

Therefore, a person who violates a state Dram Shop Act, voluntarily and intentionally provides for the sale of alcoholic beverages to an already intoxicated person which causes injuries to an innocent third party. This person should not be able to walk away from his liabilities simply by filing a proceeding in bankruptcy and claiming that he did not actually serve the drinks to the intoxicated person. To reach this conclusion flies in the face of the public policy behind the Dram Shop statutes.

II. The Decision of the Court of Appeals is Erroneous

The Fifth Circuit affirmance of the Bankruptcy Court's finding that Sanford's debt should be dischargeable cause he 1) "did not personally sell any drinks to Reasoner," and 2) that "Sanford's actions, because he had no personal involvement, were not willful, but rather, at worst negligent" (App. at 3-4) is erroneous for several reasons.

First, the Bankruptcy Court misinterpreted the liability under the Texas Dram Shop Act. The Texas Dram Shop Act put direct liability upon Respondent in his capacity as Tommie Ray's for providing and selling the liquor, even if he did not serve the liquor. Thus, contrary to the Bankruptcy Court's interpretation, this was not a case of vicarious liability. *See Section IC supra.*

Second, negligence in certain circumstances such as in drunk driving cases and malpractice actions can be willful and malicious for the purposes of 11 U.S.C. § 523(a)(6). When the requisite elements that give rise to a subjective intent and implied malice, it is sufficient to bar the dischargeability of the debt under 11 U.S.C. § 523(a)(6). *See Section IB supra.*

The 295th Judicial District Court of Harris Count found that Tommie Ray Sanford dba Tommie Ray's was liable to Appellant because he provided or sold the alcoholic beverages to an already intoxicated person. (App. at 21-22) Based upon the fact that Respondent held the liquor license for Tommie Ray's, the 295th Judicial District Court awarded judgment for Petitioner against Respondent, individually and doing business as Tommie Ray's. (App. 21-24)

In the present case, Respondent filed a Chapter 7 bankruptcy individually and for his dba, Tommie Ray's. Respondent testified that he never supervised any of his employees even though he knew it was is responsibility not to serve or sell alcoholic beverages to already intoxicated persons, and that he did not carry any liability insurance to cover any risk. Further, the 295th Judicial District Court found him primarily liable for selling alcohol beverages to Reasoner, which was the proximate cause of Petitioner's injuries. These findings alone give rise to the intent and malice that would make this case nondischargeable under the standards in similar cases. *See In re Pineau*, 149 B.R. 522, 527 (Bankr. D. Me. 1992), rev'd on other grounds, 149 B.R. 239 (D. Me. 1993); *Strauss*, 99 B.R. at 399-400; *Dean*, 79 B.R. at 662.

The Fifth Circuit found no error in the Bankruptcy Court's finding that Sanford did not personally sell any drinks to Reasoner; therefore his actions were only vicarious and not willful and malicious under 11 U.S.C. § 523(a)(6). This analysis ignores the plain intent of the Texas Dram Shop Act which placed direct liability on Sanford as the owner of Tommie Rays for providing the liquor for sale to Reasoner. *See* Tex. Alco. Bev. Code § 2.02.

There is no case law on point which has interpreted a Dram Shop statute as to whether the liability is imputed and whether a violation under the statute is willful and malicious as defined by 11 U.S.C. § 523(a)(6). The cases that were relied on by the Bankruptcy Court and the District Court to show that imputed or vicarious liability cannot necessarily give rise to the malicious and willful standard required to hold a debt nondischargeable are all distinguishable from the facts in the present case. These cases are all distinguishable because in all of the cases, either no judgment had been rendered in the state court against

the debtor, or the judgment which was rendered in the state litigation against the debtor was based solely on a statute that imputed only financial responsibility and not direct liability against the debtor. *See e.g. In re Austin*, 36 B.R. 306 (Bankr. N.D. Tenn. 1984) (No state judgment existed. Bankruptcy court found no evidence that minors were being served and state statute being sued under only placed financial responsibility on bar for serving the alcohol); *In re Rex*, 150 B.R. 505 (Bankr. D. Mass. 1993) (State Court judgment was rendered solely upon a theory of vicarious liability flowing from the actions of debtor's sons and no attempt to show that debtors had direct liability); *In re Horne*, 46 B.R. 814 (Bankr. N.D. Ga 1985) (underlying basis was financial responsibility for parent when son was driving while intoxicated and no independent liability found); *In re Eggers*, 51 B.R. 452 (Bankr. E.D. Tenn. 1985) (liability imputed to defendant's mother because of financial responsibility, but no independent cause of action against mother debtor).

The United States District Court relied heavily on *In re Taneff*, 901 B.R. 501, 503 (W.D.N.Y. 1996). However, in *Taneff*, the debtor did not specifically remember selling alcoholic beverages to the injured party. Additional, in *Taneff*, there was no existing Dram Shop statute or a state court finding that found the debtor in *Taneff* directly liable as in the case at bar. Unlike the statutes in the cases cited above, the Texas Dram Shop Act provided direct liability on Respondent for his act of providing and selling alcoholic beverages to Reasoner. *See* Tex. Alco. Bev. Code § 2.02. Under the Texas Dram Shop Act, Respondent had the responsibility to ensure that Respondent Tommie Ray's, his dba, did not provide for sale or sell liquor to an already intoxicated person. As the holder of the license or permit, Respondent had the responsibility and ability to ensure that when he provided the alcoholic beverages for sale, they did not get sold to an

already intoxicated persons. Despite Respondent's direct responsibility, he chose not to exercise this responsibility by failing to secure liability insurance and failing to properly supervise his employees and see that they did not sell or serve liquor to already intoxicated person. *See Pineau*, 141 B.R. at 527.

Also, unlike the facts in *Austin*, *Rex*, *Horne*, or *Eggers*, where the liability of the Debtors was caused solely by the act of another, Respondent's act of providing the alcoholic beverages for sale in the present case was the proximate cause of Petitioner's injuries. *See* App. 21-22. Although Debtor did not specifically serve the drinks, he was directly liable for providing for the sale the liquor that was served. It is this act which the Bankruptcy Court should have evaluated and not the liability of the Respondent.

Further, unlike *Taneff*, a judgment in this case had already been entered against Respondent. The Bankruptcy Court went beyond this State Court Judgement to determine the basis of liability. The Fifth Circuit's affirmance of this finding is directly contrary to its findings in *Garner v. Lehrer*, 56 F.3d 677, 677 (5th Cir. 1995). *See also Parklane Hosiery Co. v. Shore*, 439 U.S. 322, 9 S. Ct. 645 (1978). The Fifth Circuit should not have affirmed the Bankruptcy Court's finding of liability other than to determine whether the actual act of providing the alcoholic beverages for sale constituted a willful and malicious injury to Petitioner. *See Parklane Hosiery Co.*, 439 U.S. at 326, 9 S. Ct. at 648; *Garner*, 56 F.3rd 677.

The Fifth Circuit also erred by allowing the Bankruptcy Court to go behind the State Court judgment to render its finding that Respondent did not individually serve the drinks to Reasoner. Liability had already be established in the state

lawsuit and was barred from relitigation by collateral estoppel. *See Parklane Hosiery Co.*, 439 U.S. at 326, 9 S.Ct. at 648; *Garner*, 56 F. 3rd 677.

Lastly, the Fifth Circuit erred in affirming the Bankruptcy Court's findings because the Respondent in this case is not only Tommie Ray Sanford individually, but Tommie Ray's the dba which provided for and sold the alcoholic beverages to Reasoner when he was already intoxicated. Tommie Ray's was merely a dba and there is no corporate shield for Respondent Tommie Ray Sanford to hide behind. By finding only vicarious liability, the Bankruptcy Court and the District Court absolved Respondent of all of his liability for providing for the sale of alcoholic beverages to an already intoxicated person in direct contravention of the Texas Dram Shop Act. *See* Tex. Alco Bev. Code § 2.02.

Additionally, Respondent was even more culpable for his acts of providing and selling alcoholic beverages because Respondent did not carry liability insurance for his dba. Respondent knew he had direct liability for selling and providing alcoholic beverages to the general public, but intentionally did not carry any type of insurance or provide any funds to cover any risk. Now he is able to discard all risk by filing for Chapter 7 bankruptcy.

III. This Case Is Important

Public policy dictates that owners of establishments that serve alcoholic beverages should be aware of the dangers imposed by providing such beverages to an already intoxicated person. The enactment of the Dram Shop statutes placed the responsibility on business owners to help insure the safety of the streets from intoxicated drivers. When a bar owner, such as Respondent in this case, intentionally sells alcoholic beverages to a person that he knows is already intoxicated he should not be able to discharge this responsibility merely by filing a Chapter 7 proceeding. In the present case, the Respondent is even more culpable because of his failure to carry liability insurance and to supervise his employees from serving the alcoholic beverages he provided. Public policy dictates that these types of debts should be nondischargeable.

A person who willfully provides alcohol to an already intoxicated person is no different that the drunk person who voluntarily drives the car. The risk to third parties is the same. When a wrongful act is done intentionally without just cause or excuse, and such act produces harm, then the act is willful and malicious. *Keller*, 106 B.R. at 643.

In the present case, the requisite intent and implied malice are present. Respondent provided alcohol to Reasoner when Reasoner was obviously intoxicated to the extent that Reasoner presented a clear danger to himself and others, and the intoxication of Reasoner was the proximate cause of Petitioner's injuries. Therefore, the debt of Respondent to Petitioner's should be held to be nondischargeable pursuant to 11 U.S.C. § 523(a)(6).

Accordingly, the Court is respectfully requested to grant the petition and reverse the judgment of the Court of Appeals.

CONCLUSION

At first blush, this case would appear to rest on a very special set of facts. However, unless this Court decides the dischargeability of debts which arise out of the Dram Shop statutes, restaurants and bars may begin to drop their liability insurance because they know that debts will be able to be discharged in bankruptcy. This would fly in the face of the public policy behind the enactment of the Dram Shop statutes, the "fresh start" policy behind the Bankruptcy Code, and the public awareness to stop accidents resulting from drunk drivers. Only this Court can reverse the erroneous interpretation of the Fifth Circuit and the Bankruptcy Court of the dischargeability of the debt that arose from the Texas Dram Shop Act.

Therefore, Petitioner respectfully requests the Court to grant her petition for a writ of certiorari to the United States Court of Appeals for the Fifth Circuit.

Respectfully submitted,

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